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IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
Northern Division

2007 AUG 27 A 9:20
DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

UNITED STATES OF AMERICA)
Respondent,)
)
vs.)
)
ARTRONE CHEATHAM)
Movant.)

Civil Docket No. 2:06-CV-210-
MEF

OBJECTIONS TO MAGISTRATE'S ORDER PURSUANT
TO Fed. Rule. Civil Procd. 72(a)(b)

COMES NOW, Artrone Cheatham, herein Movant/Cheatham, Pro-se, and respectfully petition this Honorable Court Pursuant to Rule 72(a)(b) of the Federal Rules of Civil Procedures, and submits objections to the United State's Magistrates's Judge, Charles S. Coody's Order denying Movant Leave for discovery purposes. As Grounds for these objections Movant states and shows the following:

(1) Movant files a motion requesting leave for grant of discovery on July 9, 2007 in connection to Movant's 28 U.S.C. § 2255 litigations.

(2) The Chief United States Magistrates Judge, Charles S. Coody, entered an order on August 17, 2007 Denying movant's request for discovery without any reasons or lawful opinion or explanation.

(3) After considering, Movant's request for discovery set forth facts documented in the Court's record which appear to support a theory that the sole witness who testified against Movant appear to have perjured himself. Movant asserted that requested documents and materials could be used as impeachment materials, Which would impeach the testimony of the government's only witness against Movant.

(4) The Rules for discovery under 6(a) governing 28 U.S.C. § 2255 proceedings, advises that a court may authorize discovery, upon a showing of good cause. In light of Movant's strong showing that the sole witness in his case may have perjured himself, and Movant's strong showing that the sole witness's testimony, appear to constitute a different conspiracy than that charged in the indictment. Where Movant has charged that the requested documents are designated to be used as impeachment materials, Movant has certainly shown good cause for discovery. See Bracy vs. Gramley, 520 U.S. 899, 138 L.Ed.2d 97.

(5) The Supreme Court in the Bracy case, held that "Where specific allegations before the court show reason to believe that the petitioner may,, if the facts are fully developed, be able to demonstrate that he is entitled to relief, it is the duty of the court to provide the necessary facilities and procedures for an adequate inquiry." However, in the case at bar Movant has clearly set forth reasons which appear to establish he may be entitled to

relief, upon the impeachment of the sole witness against him. however, the Chief Magistrate Judge in this case has decided in direct conflict with the Bracy case, and denied Movant leave for discovery.

(6) Additionally, the Magistrate's denial of leave for discovery, without providing reasoning or lawful grounds are shown to be in direct conflict with Supreme Court directives. See Foreman vs. Davis, 371 U.S. 178, 9 L.Ed.2d 222 at 226 [6,7] asserting, "The leave sought should, as the rule require, 'be freely given.' Of course, the grant or denial that is within the discretion of the district court, but outright refusal to grant the leave without any justifiable reason appearing for the denial, is not an exercise of discretion, it is merely an abuse of that discretion and inconsistent with the spirit of the Federal Rules of Civil Procedures.

(7) When considering, the Chief Magistrate Judge Order is shown to be contrary to Supreme Court decisions and inconsistent with the spirit of the Federal Rules Of Civil Procedure. Also after considering Movant's good cause for discovery has not been disputed or in any other manner challenged. The government has abandon the issue and argument by remaining silent, and Movant appear to be entitled to the discovery request.

(8) Therefore, Movant object to the clearly erroneous denial of his request for discovery. Considering there appear to be just and lawful grounds for this Honorable Court to grant the disclosure of the requested evidence.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Movant, respectfully request discovery under Rule 6(a), with respect to all the documents and/or evidence specified by his original motions for leave and Discovery, in compliance with the Supreme Court teaching in Bracy vs. Granley, 520 U.S. 899.

CERTIFICATE OF SERVICE

This Pro-se litigant, hereby certifies that he has caused one original and two true and correct copies of the foregoing pleading (Movant's Objections To Magistrate's Order Pursuant To Federal Rules Of Civil Procedure, 72(a) And b) to be served upon the following parties.

Clerk Of The Court
United States District Court
Middle District Of Alabama
Post Office Box 711

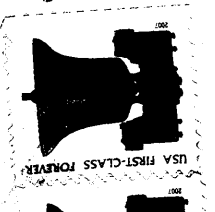
Todd A. Brown
Assistant United States Attorney
Post Office Box 197
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By way of the United States Postal Service, Executed on;

This 23 Day Of August, 2007


ARTRONE CHEATHAM

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